

Zu NVwZ 2011, 1165:

„Von der Versorgung ohne Auftrag zur Bestrahlung ohne Gesetz –

Warten auf die lex Mobilfunk“

Bernd Irmfrid Budzinski

“From the Supply without a Mandate to Radiation without Law”

– Waiting for the ‘lex mobile’ –

The human right to respect for the home (Art. 8, para. 1 ECHR) also applies to the emissions of mobile telephony – so decided by the European Court of Human Rights in 2007. The scheduled and penetrating radiation of interiors of all living quarters therefore needs a legal justification (Art. 8, para.2 ECHR). Yet, no law allows it. For the so-called indoor supply permitting the operation of mobile telephony also inside apartments was not planned, as the pioneers of mobile telephony report. Such tacit enlargement of the supply concept opened the way to the “uncontrolled exposure of the population” to radiation in the home without a break and during the night, contrary to the radiation exposure initially expected only in the open. This situation lacked a “general legal basis”, i.e. the legal “authorization of the legislature”, considered the Federal Office for the Protection against Radiation and the Commission for the Protection against Radiation in 2006. Regardless of this, and irrespective of the additional warning in 2007 by the Head of the Committee on Non-Ionizing Radiation of the Commission for the Protection against Radiation that new wireless technologies should not constantly be introduced, at least not without tests of their biological effects, the new LTE-Network is being installed immediately and without any further tests thus producing an even stronger penetration of houses, including the cellar, and new applications (e.g. the Smart Meter) are being added that need the increased intensity. – The overdue legal analysis shows that mobile phone operating indeed takes place without sufficient legal basis.”

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